

VIRGINIA:

IN THE CIRCUIT COURT FOR FAIRFAX COUNTY

In re:

**Multi-Circuit Episcopal Church
Litigation**

) **Civil Case Numbers:**

) CL 2007-248724,
) CL 2006-15792,
) CL 2006-15793,
) CL 2007-556,
) CL 2007-1235,
) CL 2007-1236,
) CL 2007-1237,
) CL 2007-1238,
) CL 2007-1625,
) CL 2007-5249,
) CL 2007-5250,
) CL 2007-5362,
) CL 2007-5363,
) CL 2007-5364,
) CL 2007-5682,
) CL 2007-5683,
) CL 2007-5684,
) CL 2007-5685,
) CL 2007-5686,
) CL 2007-5902,
) CL 2007-5903, and
) CL 2007-11514

ORDER

The Court hereby ORDERS the following:

1. For the reasons stated in a letter opinion issued today, the Commonwealth's Renewed Motion to Intervene for the purpose of defending the constitutionality of Va. Code § 57-9(A) is hereby GRANTED.

2. After careful consideration of the positions of the parties regarding the scope of discovery, the Court has determined that it cannot disturb its previous discovery rulings at this time. To do so when the parties remain in such fundamental disagreement as to the scope of the October trial, and even as to whether certain issues are matters of fact or questions of law, could place at risk the October trial date. This the Court is unwilling to do.

3. There are certain matters that this Court has already determined will be heard in the October trial. They are as follows:

A. The declaratory judgment actions as to any congregation that did not file a 57-9 petition.

B. As to all congregations that filed 57-9 petitions, the Court must determine whether the vote was “fairly taken” in accordance with 57-9, and approve or disapprove the determination of the congregation regarding its majority vote as to its choice of branch.

C. As to all congregations that filed 57-9 petitions, and where the contracts clause issue has not already been resolved prior to trial, the Court must determine whether the statute is unconstitutional on contracts clause grounds as to that particular congregation.

D. The declaratory judgment action as to any congregation that did file a 57-9 petition, where *either* the Court disapproves the determination of the congregation regarding its majority vote as to its choice of branch *or* the Court finds 57-9 to be unconstitutional as to that congregation on contracts clause grounds.

4. There are certain other issues that may affect the scope of the October trial:

A. Whether any of the congregations that did not file 57-9 petitions are covered by or subject to a petition filed by another congregation, a claim that has been asserted by the CANA Congregations.

B. The precise property subject to each 57-9 petition.

C. Whether ECUSA/Diocese may assert at the October trial that the CANA Congregations have contracted away, waived, abandoned or relinquished their right to file a 57-9 petition, a claim that the CANA Congregations argue is untimely and unpled.

D. Whether the Contracts Clause protects only contractual rights that existed prior to the effective date of the 1867 predecessor statute to 57-9, a position asserted by the CANA Congregations.

E. Whether in determining the applicability of the Contracts Clause to particular congregations, the Court should consider only the applicable deeds, a position asserted by the CANA Congregations.

3(A) and 3(B) are matters that may require an evidentiary hearing and it is not the Court's present intention to resolve these questions prior to the October trial. 3(C), 3(D) and 3(E) are pure questions of law and will be resolved prior to trial.

The parties are to address 3(C), 3(D) and 3(E) as follows:

1. Opening briefs of no more than 20 pages to be filed by July 28, 2008.

2. Opposition briefs of no more than 15 pages to be filed by August 4, 2008.

3. Reply briefs of no more than 10 pages to be filed by August 7, 2008.

4. Oral argument on these questions to be held at 10 A.M. on Monday, August 11, 2008.

SO ORDERED, this 16 day of July 2008.



Randy I. Bellows,
Circuit Court Judge